

DEMETRIUS KELLUM §
v. § CIVIL ACTION NO. 6:16cv1294
DIRECTOR, TDCJ-CID §

Kellum received a copy of the Report recommending denial of his motion for relief from judgment on November 8, 2017, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law"). It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 21) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the Plaintiff's motion for relief from judgment (docket no. 20) is **DENIED**. Because Kellum's petition was dismissed without prejudice, the denial of his motion for relief from judgment does not preclude him from re-filing his habeas corpus petition at such time as his state remedies are exhausted.

So Ordered and Signed

Jan 10, 2018



Ron Clark, United States District Judge